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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/996,315	11/28/2001	Dominick DallaVerde	3546/063	2986

EXAMINER	
VARGOT, MATHIEU D	

ART UNIT	PAPER NUMBER
1473	7590
05/25/2004	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/996,315	Applicant(s) DALLAVERDE, DOMINICK	
	Examiner Mathieu D. Vargot	Art Unit 1732	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED **FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.**
Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☒ Applicant's reply has overcome the following rejection(s): _____.
4. ☒ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☒ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

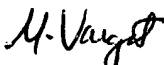
Claim(s) allowed: NONE.

Claim(s) objected to: NONE.

Claim(s) rejected: 1,3-11 and 20-25.

Claim(s) withdrawn from consideration: 12-19.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See Continuation Sheet


Mathieu D. Vargot
Primary Examiner
Art Unit: 1732

Continuation of 5. does NOT place the application in condition for allowance because: While it is agreed that the abstract of the primary reference only mentions "invisible patterns" with respect to the rear surface of the stamper, there is no indication that these must necessarily give rise to "invisible" patterns when the disk is made. In fact, the language "capable of identifying watermarks only by the reproduction of disks" may indeed be interpreted that the watermark is human eye visible upon making the CD. However, the secondary reference clearly shows visible means of authenticating involving data structures which are of different height. One of ordinary skill in this art would recognize that either machine-readable or human eye visible marks would have been used for authentication.

Continuation of 10. Other: Applicant's arguments are directed to the motivation to combine the references. Bahns et al clearly teaches making a design for authentication on a CD wherein the heights of the data structures are made different so that the design is visible. While the primary reference may (and it is not clear that it does--see continuation of paragraph 5) teach such at a level which is essentially invisible to the human eye, clearly it is known in the art to do so so that the design is visible and one of ordinary skill in the art would have found such obvious in the primary reference for added flexibility in detecting the CD. Ie, the motivation comes from what is generally known in the art. The only discernible difference between the references applied (concerning the designs on the CD) is at most the difference in heights of the data structures as to whether the design is visible or not. One of ordinary skill in the art would understand that slight differences in height would provide a design which is either machine-readable or visible to the human eye and hence one would make the differences in data structures at the desired level dependent on whether one desired the design to be visible to the human eye or simply machine-readable.